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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/716,474

11/20/2003

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KAS-195

6873

7590 07/18/2007
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EXAMINER

MEYERS, MATTHEW S

ART UNIT	PAPER NUMBER
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3629

MAIL DATE	DELIVERY MODE
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07/18/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/716,474	Applicant(s) KIKUCHI ET AL.	
	Examiner Matthew S. Meyers	Art Unit 3629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 May 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-----------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is in response to applicant's communication on 5/18/2007, wherein claims 1-9 are currently pending and claims 10-13 have been cancelled.

Information Disclosure Statement

2. The information disclosure statement (IDS) submitted is being considered by the examiner.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. As claimed, applicant's claim language is too broad as to completely construe claim scope at this time. However, in accordance with MPEP §2173.06 and the USPTO's policy of providing art rejections even though the claim(s) contain 35 U.S.C. 112 2nd paragraph rejections, the claims are construed and the art is applied as much as practically possible.
5. Claim 6 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant

regards as the invention. Applicant claims, "said analyzer has the function of validating its own ability of the function..." It is unclear as to what applicant means?

Claim Rejections - 35 USC § 101

6. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-9 are rejected under 35 U.S.C. 101 because under the broadest reasonable interpretation of the claimed invention as a whole encompasses a human being, then a rejection under 35 U.S.C. 101 must be made indicating that the claimed invention is directed to nonstatutory subject matter. Furthermore, the claimed invention must be examined with regard to all issues pertinent to patentability, and any applicable rejections under 35 U.S.C. 102, 103, or 112 must also be made. MPEP 2105.

Presently, Claims 1-9 depend on a human being to collect, record and manage information regarding cross-contamination. Additionally, applicant relies upon a human being again, to offer this information to another human being. After a careful examination of applicant specification, Examiner has determined, using applicant's definitions of "supervisor", "information offerer", and the "information receiver" that these claims are directed towards non-statutory subject matter.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Mault (Pub. No.: US 2003/0129578).

9. With respect to **Claim 1:**

Mault discloses a system comprising:

a supervisor collecting, recording and managing information (Mault [0006], "...the central computer, upon communication therewith being established by any of the individuals, directs a series of inquiries to the respective individuals requesting responses to be transmitted to the central computer.");

a plurality of information offerers offering the information to said supervisor (Mault [0007], "Various local input devices may be used to transmit this information to the central computer, including mobile telephones, personal digital assistants (PDAs), personal computers, desktop appliances, interactive TVs, and health condition monitors, such as temperature measuring devices, blood pressure measuring devices, respiratory analyzers, etc.");

a plurality of information receivers receiving the information from said supervisor (Mault [0006], "...the central computer, upon communication therewith

being established by any of the individuals, directs a series of inquiries to the respective individuals requesting responses to be transmitted to the central computer.”);

a communication system for dispensing the information among said supervisor, said plurality of information offerers, and said plurality of information receivers via communication lines (Mault [0008], “...the information is transmitted from the individuals to the central computer via the Internet communication system.”); and

a processing system for periodically sending the information under management of said supervisor to said plurality of information receivers (Mault [0007], “Various local input devices may be used to transmit this information to the central computer, including mobile telephones, personal digital assistants (PDAs), personal computers, desktop appliances, interactive TVs, and health condition monitors, such as temperature measuring devices, blood pressure measuring devices, respiratory analyzers, etc.”).

10. With respect to **Claim 2**:

Mault discloses a system according to claim 1, wherein said supervisor carries out a validation test based on the collected information to validate whether the information is true or false (Mault Fig. 4, item 43, “Server software analyzes data”)

11. With respect to **Claim 3**:

Mault discloses a system according to claim 2, wherein said supervisor is made up of an information collecting organization for collecting the information (Mault.Fig. 4, item 44, "Server software generates feedback, alerts").

12. With respect to **Claim 4:**

Mault discloses a system according to claim 2, wherein said supervisor is made up of an information collecting and managing organization for collecting the information (Mault [0006], "...the central computer, upon communication therewith being established by any of the individuals, directs a series of inquiries to the respective individuals requesting responses to be transmitted to the central computer.").

13. With respect to **Claim 5:**

Mault discloses a system according to claim 1, wherein the information regarding cross-contamination contains at least one of information for identifying an offensive reagent, information for identifying a defensive reagent, information regarding a level of influence of the cross-contamination, information regarding a contamination place, information regarding a detergent type, and information regarding a detergent volume (Mault [0028], "Each local input device, or some of them, includes a memory for storing data, a display for displaying such data, and an interface for interfacing the local input device with the communication network for transmission to the central computer." and [0028] "By integrating the instantaneous flow volume with the instantaneous oxygen partial pressure, the oxygen uptake of the user can be calculated. Inclusion of additional gas sensors for carbon dioxide, nitric oxide, ketones, and other gases can be included to provide quantification of additional physiological parameters.").

14. With respect to **Claim 6**:

Mault discloses a system according to claim 1, wherein each of said plurality of information receivers manages an analyzer utilizing the information (Mault Fig. 3, item 21, "Processor").

15. With respect to **Claim 7**:

Mault discloses a system according to claim 6, wherein said analyzer has the function of displaying the information having been automatically taken in, the function of asking an operator of said analyzer for whether the operation sequence of said analyzer is to be changed or not, the function of registering a result of confirmation made by the operator, and the function of changing the operation sequence of said analyzer in accordance with the registration result (Mault Fig. 3, item 28, "Display").

16. With respect to **Claim 8**:

Mault discloses a system according to claim 6, wherein said analyzer has the function of validating its own ability of the function of suppressing cross-contamination, and the function of determining whether the operation sequence of said analyzer is to be changed or not, based on combination of the validated ability of the function of suppressing cross-contamination and the cross-contamination information having been automatically taken in (Mault [0009], "The outputs produced by the central computer, based on the statistical analysis of the inputted information, could include directing the individual to a healthcare agency, such as a hospital or a physician; directing the delivery of selected medications to selected areas; alerting healthcare officials to a

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particular health condition in a particular geographical location; and/or the issuance of statistical reports based on the statistical analysis.”).

17. With respect to **Claim 9**:

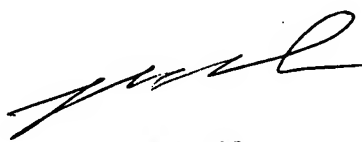
Mault discloses a system according to claim 1, further including a processing system for enabling said supervisor and said information offerers to receive predetermined charges in exchange for offering the information (Mault Fig. 3, item 21, “Processor”).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew S. Meyers whose telephone number is (571)272-7943. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571)272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MSM
7/1/07



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